

A. G. Contract No. KR94 2788TRN  
ECS File No.: JPA 94-200  
Project: H3953 01C  
Section: I-19B (Grand Avenue)  
at Western Avenue  
Border Area Transp. Program

**INTERGOVERNMENTAL AGREEMENT**

BETWEEN

THE STATE OF ARIZONA

AND

THE CITY OF NOGALES

THIS AGREEMENT is entered into 19 January, 1994, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF NOGALES, acting by and through its MAYOR and CITY COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-108 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. The City and the State recently completed a Nogales area transportation study, which indicates a requirement to accomplish Border Area Transportation Program roadway improvements to Route I-19B (Grand Avenue) at the intersection of Western Avenue in the City, hereinafter referred to as the Project, which will accomodate increased traffic resulting from NAFTA. The parties agree the City will be the lead agency for the Project.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 19392  
FILED WITH SECRETARY OF STATE  
Date Filed 01/19/95  
James P. Hull  
Secretary of State  
By Vicky Greenwood

## II. SCOPE OF WORK

### 1. The City will:

a. Provide to State standards design plans, specifications and such other documents and services required for construction bidding and construction. Incorporate State review comments.

b. Comply with the requirements of Arizona Revised Statute Section 41-2533 et seq. Call for bids, and with the concurrence of the State, award one or more construction contracts for the Project. Administer same and make all payments to the contractor. Be responsible for any contractor claims for extra compensation attributable to the City.

c. Provide construction engineering for the Project, and upon completion, approve and accept the Project on behalf of the parties hereto.

d. Invoice the State for the reasonable direct actual cost of the Project, with no profit or fee, in an amount not to exceed \$465,000.00.

### 2. The State will:

a. Review the design documents and provide comments.

b. After bid opening but prior to award confer with the City on the low responsible responsive bid and provide concurrence for contract award. Provide construction engineering assistance as available at no cost to the City.

c. Be responsible for any contractor claims for extra compensation attributable to the State.

d. Reimburse the City for the reasonable direct actual cost of the Project, in an amount not to exceed \$465,000.00, within thirty (30) days after receipt and approval of invoices.

e. Upon completion and acceptance by the City, provide maintenance.

## III. MISCELLANEOUS PROVISIONS

1. This agreement shall remain in force and effect until completion of said Project and reimbursements; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, may be cancelled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

2. This agreement shall become effective upon filing with the Secretary of State.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 South 17 Avenue, Mail Drop 616E  
Phoenix, AZ 85007

City of Nogales  
City Manager  
777 North Grand Avenue  
Nogales, AZ 85621

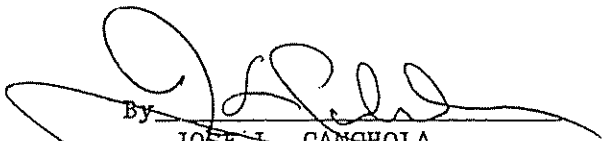
7. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

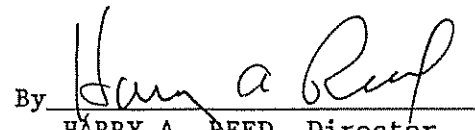
IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

**CITY OF NOGALES**


**STATE OF ARIZONA**

Department of Transportation

By   
JOSE L. CANCHOLA  
Mayor

By   
HARRY A. REED, Director  
Transportation Planning  
Division

ATTEST

By   
Mike Hein  
City Clerk

RESOLUTION

BE IT RESOLVED on this 4th day of November 1994, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Transportation Planning Division, to enter into an agreement with the City of Nogales for the purpose of defining responsibilities for the construction of improvements to I-19B (Grand Avenue) at the intersection of Western Avenue in the City to accomplish portions of the BAT program.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted for approval and execution by the Director, Transportation Planning Division.

A handwritten signature in black ink, appearing to read 'L. S. Bonine', written over a horizontal line.

LARRY S. BONINE  
Director

RESOLUTION NO. 94-12-45

A RESOLUTION OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF NOGALES APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH ARIZONA DEPARTMENT OF TRANSPORTATION FOR THE GRAND AVENUE AND WESTERN AVENUE PROJECT (JPA 94-200)

WHEREAS, the City of Nogales (City) and the Arizona Department of Transportation (State) desire to cooperate in the construction of a border area transportation program roadway at the intersection of Grand Avenue and Western Avenue in the City of Nogales; and

WHEREAS, City is empowered by Arizona Revised Statutes §48-572 to enter into intergovernmental agreements; and

WHEREAS, the State is empowered by Arizona Revised Statute §28-108 to enter into this intergovernmental agreement; and

WHEREAS, City and State desire to cooperate for the construction of Project (JPA 94-200) upon the terms and conditions set forth in the attached Intergovernmental Agreement,

NOW, THEREFORE, BE IT RESOLVED by the mayor and board of aldermen of the City of Nogales that the Intergovernmental Agreement between the City of Nogales and the Arizona Department of Transportation a copy of which is attached hereto and incorporated herein by this reference, be and hereby is accepted and approved;

BE IT FURTHER RESOLVED that the Mayor be and hereby is authorized to execute said Intergovernmental Agreement, and that staff be and is hereby directed to do all acts necessary and consistent with the purposes and provisions contained within said agreement.

PASSED AND ADOPTED THIS 7th DAY OF December 1994.

APPROVED THIS 7th DAY OF December 1994.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY  
O'Connor, Cavanagh, Anderson  
Westover, Killingsworth & Beshears

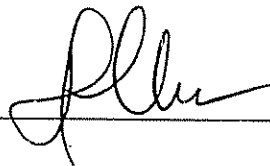
By   
\_\_\_\_\_

JPA 94-199

APPROVAL OF THE NOGALES CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION and the CITY OF NOGALES and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

DATED this 12<sup>th</sup> day of DEC., 1994.



\_\_\_\_\_  
City Attorney

Office of the City Attorney  
O'Connor, Cavanagh, Anderson  
Westover, Killingsworth & Beshears



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

GRANT WOODS  
ATTORNEY GENERAL

MAIN PHONE : 542-5025  
TELECOPIER : 542-4085


INTERGOVERNMENTAL AGREEMENT  
DETERMINATION

A. G. Contract No. KR94-2788-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. §11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this // <sup>7<sup>th</sup></sup> day of January, 1995.

GRANT WOODS  
Attorney General

  
\_\_\_\_\_  
JAMES R. REDPATH  
Assistant Attorney General  
Transportation Section

JRR:ggt  
8661G/98